## REMARKS
**Reconsideration And Allowance**
**Are Respectfully Requested.**

Claims 1-12 are currently pending. Claim 1 has been amended . Claim 13 has been added, dependent upon Claim 1. No new matter has been added. Reconsideration is respectfully requested.

Support for the amendments to Claim 1, which specifies that the reaction proceeds as an ionic reaction through displacement of the halogen atom, is found at Page 8 of the application, which shows the chemical reaction sequence clearly indicating an ionic and not a free radical mechanism (as is otherwise taught in Bowser). The additional wording added in the second paragraph of Claim 1 merely characterizes the nature of the polymeric base material in that they are selected from the group consisting of a terpolymer and a copolymer or polymer. The Markush grouping for the polymeric base material, however, has not been expanded and has been narrowed to the indicated polymeric base materials. New Claim 13 has been added to indicate that the polymeric base material, the cross-linking agent and the adhesion promoter are added together in a single vessel. Support for this addition is seen in the Example set forth at Pages 12-14.

The unique properties of the composition defined in the claims is due to the nature of the reaction sequence as indicated more specifically in the Certification of Melvin Auerbach attached hereto. Specifically, the reaction goes by way of an ionic displacement at the halogen atom. The mechanism is shown at Page 8 of the application and involves in this case the bromine atom, although other halogen atoms can be utilized. In this sequence, the bromine atom is appended to the methyl side chain of the benzene ring. The cross-linking agent functions as a displacement agent in this ionic reaction displacing the bromine from the methyl group and resulting in a cross-link polymer (copolymer). The resulting product displays a toughness that is totally different from that

taught in Bowser, wherein a metal spacer is required to maintain the integrity of the product (see, for example, Column 11, Lines 30-33). The reason a spacer is not required in applicant's composition is because the cross-link product is so different from that taught in Bowser, due in large part to the ionic displacement reaction which results in a different product than the free radical initiated reaction of Bowser.

In addition, Bowser teaches the uses of two separate mixing vessels (see Column 9, Lines 50-70, and Column 10, Lines 1-25). This is contrasted with applicant's invention in which the composition, in one embodiment, is formulated in one vessel. The two processes are clearly seen to be substantially distinct, ultimately resulting in an inferior product being produced by Bowser. Thus, the combination of an ionic displacement reaction with the mixing sequence in one vessel as indicated in Claim 13, leads to a product that is distinguishable from the Bowser composition.

The other arguments contained in the Certification of Melvin Auerbach are incorporated herein by reference.

In Kaeding, a vapor barrier or "stop" is taught as a necessary element of its composition. As now amended, applicant's claims specifically disclose an ionic reaction as a process for forming its composition which is totally distinct from that taught by Kaeding. The proof of that statement is the fact that Kaeding required the "stop" or vapor barrier which is not required by applicant. Kaeding's composition has minimal cross-linking, thereby requiring the vapor barrier or "stop". It is believed that the limitations engrafted in the claims as they now stand, overcome the Kaeding teachings.

## CONCLUSIONS

In view of the above, it is respectfully requested that the claims as now amended are in condition for allowance. Neither Bowser nor Kaeding disclose the unique compositions of applicant's invention which are obtained in the context of an ionic displacement reaction. Allowance of the claims is hereby respectfully requested.

Respectfully submitted,

Arnold D. Litt
Registration No. 26,296

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Court Plaza South
21 Main Street
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Our Docket No. LIT-015-DIV

F:\wp\Jcampione\PATENTS\Auerbach-Seal Strip\Amendment No. 10-675974 Office Action 11-30-05 3-17-06.doc

PTO/SB/30 (04-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE


# Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

| | |
|---|---|
| Application Number | 10/675,974 |
| Filing Date | October 2, 2003 |
| First Named Inventor | Melvin Auerbach |
| Art Unit | 1713 |
| Examiner Name | Peter D. Mulcahy |
| Attorney Docket Number | LIT-015-DIV |

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

   a. [X] Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

      i. [ ] Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

      ii. [ ] Other _____

   b. [X] Enclosed

      i. [X] Amendment/Reply

      ii. [ ] Affidavit(s)/ Declaration(s)

      iii. [ ] Information Disclosure Statement (IDS)

      iv. [ ] Other _____

2. Miscellaneous

   a. [ ] Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

   b. [ ] Other _____

3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

   a. [ ] The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. _____. I have enclosed a duplicate copy of this sheet.

      i. [X] RCE fee required under 37 CFR 1.17(e)

      ii. [ ] Extension of time fee (37 CFR 1.136 and 1.17)

      iii. [ ] Other _____

   b. [X] Check in the amount of $ 395.00 enclosed

   c. [ ] Payment by credit card (Form PTO-2038 enclosed)

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

*SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED*

| | | | |
|---|---|---|---|
| Signature | | Date | 2/22/06 |
| Name (Print/Type) | Arnold D. Litt, Attorney for Applicant | Registration No. | 26,296 |

*CERTIFICATE OF MAILING OR TRANSMISSION*

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

| | | | |
|---|---|---|---|
| Signature | Judith L. Campione | | |
| Name (Print/Type) | Judith L. Campione | Date | 2/22/06 |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Melvin Auerbach

Group Art Unit: 1713

Serial No.: 10/675,974

Examiner: Mulcahy, Peter D.

Filed : 10/02/2003

Title : SEALING STRIP COMPOSITION

## AMENDMENT

Mail Stop: Amendment
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action of November 30, 2005, kindly amend the present application as follows:

**IN THE CLAIMS:**

1. (currently amended) A composition adapted for use as a sealing strip in the manufacture of insulating structures characterized by improved compression resistance and low moisture vapor transmission rates whereby no spacer or moisture barrier is present therein, ~~comprising a single component~~ comprising:

a polymeric base material selected from the group ~~including in combination compounds chosen from the group~~ consisting of a terpolymer and a copolymer or polymer consisting of in combination polyisobutylene copolymers, polyisoprene copolymers, polyisobutylene polymers, brominated olefin polymers, butyl rubber copolymers, ethylene-propylene polymers, polysulfide polymers, polyurethane polymers, and styrene;

a cross linking agent including compounds chosen from the group consisting of divalent metal oxides, divalent salts of organic fatty acids, ~~organic fatty acids~~, zinc oxide, zinc stearate, stearic

acid, zinc octoate, tin octoate, and calcium stearate, wherein said cross-linking agent constitutes a displacement agent which acts to displace a halogen atom in an ionic reaction, resulting in cross-linking of the polymeric base material ; and

an adhesion promoter

2. (currently amended) The composition according to claim 1 further comprising a tackifier wherein the tackifier is less than 10% of the composition by weight.

3. (original) The composition according to Claim 1, wherein the cross linking agent is zinc octoate.

4. (original) The composition according to Claim 1, wherein the adhesion promoter is chosen from the group consisting of organopolysiloxanes, organosilanes, organoaminosilanes, epoxysilanes, thiosilanes, organosilanols, alkoxysilanes, acetoxysilanes and ketoxysilanes.

5. (original) The composition according to Claim 1, wherein the adhesion promoter is chosen from the group consisting of vinyltriethoxy silane, methyltris(isopropenoxy)silane, (N,N-Dimethyl-3-aminopropyl) silane, gamma-glycidoxy-propyltrimethoxysilane, polydimethylsiloxane and N-beta-(aminoethyl)-gamma-aminopropyltrimethoxysilane.

6. (original) The composition according to Claim 1, wherein the adhesion promoter is organoaminosilane.

7. (original) The composition according to Claim 1, wherein the tackifier is chosen from the group consisting of organic monomers, oligomers and polymers of hydrogenated C5 and C9 resins, C5 hydrogenated resins, polyterpene resins, pentaerythritol esters of hydrogenated wood resins,

phenolic polyterpene resins, alpha pinene resins, dipentene resins, hydrogenated C5 esters, cycloalkene resins, phenol-aldehyde resins, rosin acids and esters, dipentene resins, petroleum hydrocarbon resins and alkyl aromatic hydrocarbon resins.

8. (original) The composition according to Claim 1, wherein the tackifier is C5 hydrogenated resins.

9. (original) The composition according to Claim 8, wherein the cross linking agent is chosen from the group consisting of divalent metal oxides, divalent salts of organic fatty acids, organic fatty acids, zinc oxide, zinc stearate, stearic acid, zinc octoate, tin octoate and calcium stearate.

10. (original) The composition according to Claim 8, wherein the adhesion promoter is chosen from the group consisting of organopolysiloxanes, organosilanes, organoaminosilanes, epoxysilanes, thiosilanes, organosilanols, alkoxysilanes, acetoxysilanes and ketoxysilanes.

11. (canceled)

12. (original) The composition according to Claim 1, further including a filler, molecular sieve and plasticizer.

13. (new) The composition of Claim 1, wherein the polymeric base material, the cross-linking agent and the adhesion promoter are added together in a single vessel.

## REMARKS
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taught in Bowser, wherein a metal spacer is required to maintain the integrity of the product (see, for example, Column 11, Lines 30-33). The reason a spacer is not required in applicant's composition is because the cross-link product is so different from that taught in Bowser, due in large part to the ionic displacement reaction which results in a different product than the free radical initiated reaction of Bowser.

In addition, Bowser teaches the uses of two separate mixing vessels (see Column 9, Lines 50-70, and Column 10, Lines 1-25). This is contrasted with applicant's invention in which the composition, in one embodiment, is formulated in one vessel. The two processes are clearly seen to be substantially distinct, ultimately resulting in an inferior product being produced by Bowser. Thus, the combination of an ionic displacement reaction with the mixing sequence in one vessel as indicated in Claim 13, leads to a product that is distinguishable from the Bowser composition.

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## CONCLUSIONS

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Respectfully submitted,

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Registration No. 26,296

HERTEN, BURSTEIN, SHERIDAN, CEVASCO, BOTTINELLI, LITT & HARZ
Court Plaza South
21 Main Street
Hackensack, New Jersey 07601
(201) 342 - 6000

Our Docket No. LIT-015-DIV

F:\wp\Jcampione\PATENTS\Auerbach-Seal Strip\Amendment No. 10-675974 Office Action 11-30-05 2-21-06.doc

**SERIAL NUMBER: 10/675,974**

**APPLICANT:** **MELVIN AUERBACH**

**FILING DATE:** **OCTOBER 02, 2003**

**TITLE:** **SEALING STRIP COMPOSITION**

**CERTIFICATION OF MELVIN AUERBACH**

Before Examiner: Peter D. Mulcahy
Group Art Unit: 1713

1. I certify that I am of full age, and I am the inventor of the subject Patent Application. I have reviewed the Office Action submitted by Peter D. Mulcahy, mailed November 30, 2005, and note the following.

2. The claims as amended specify an ionic displacement reaction in connection with my product formation. In that context and with regard to the George H. Bowser reference (US Patent 4,215,164), the reaction discussed at length therein is clearly based upon a free radical initiation caused by the admixture of quinone dioxime and an oxidizing agent such as lead oxide. Those of ordinary skill in the art know that this reaction proceeds by a free radical mechanism and not in an ionic fashion. Thus, the cross-linking in Bowser is caused by a free radical mechanism not present in this inventor's process. In Bowser the quinone dioxime and oxidizing agent are introduced into the reaction in catalytic amounts and as a catalyst, are not consumed in the reaction. This is contrasted with the applicant's reaction mechanism in which the cross-linking agent, such as zinc octoate, for example, is consumed in an ionic reaction resulting in the cross-linked polymer (copolymer)

3. The mechanism is shown at Page 8 of the Application and involves the bromine atom, which is appended to the methyl side chain of the benzene ring. In clear fashion, obvious to anyone of ordinary skill in the art, the cross-linking agent functions as a ***displacement*** agent in an ionic reaction displacing the halogen atom from the methyl group and resulting in a cross-linked polymer (copolymer). The resulting product displays a toughness that is totally different from that taught in Bowser, wherein a metal spacer is required to maintain the integrity of the product (see, for example, Column 11, Lines 30-33). The reason a spacer is not required in applicant's composition is because the cross-linked product is so different from that taught in Bowser, due in large part to the ionic displacement reaction as contrasted to the free radical reaction of Bowser.

4. While the precise words referenced above are not found in the specification or teachings of the Application, they are inherent/implicit in the chemical systems and chemical structures taught in

the specification. As such, these concepts are not new matter.

5. In Bowser, the patentee teaches two separate mixture vessels as set forth at Column 9, Lines 50-70 and Column 10, Lines 1-25. This is contrasted with applicant's invention in which the composition is formulated in one vessel. The two processes are clearly seen to be substantially distinct, ultimately resulting in an inferior product (with respect to strength and toughness) being produced by Bowser. That there is one single component as compared to the two component system of Bowser, is seen from the experimental procedure taught by the undersigned. Thus, at Pages 13-14 it is clear that the mixture of the components occurs in one vessel. Again, this is critical to the observed properties of my product.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the Application or any patent issued thereon.

Date: 2/17/06

MELVIN AUERBACH

F:\wp\Jcampione\PATENTS\Auerbach-Seal Strip\Certification - Auerbach 2-16-06.doc

**SERIAL NUMBER: 10/675,974**

**APPLICANT: MELVIN AUERBACH**

**TITLE: SEALING STRIP COMPOSITION**

**MAILING DATE: February 22, 2006**

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

Express Mail mailing label number : EL 984031185 US

Date of Deposit : February 22, 2006

I hereby certify that the following is being deposited with the United States Postal Service with sufficient postage as Express Mail in an envelope addressed to COMMISSIONER FOR PATENTS, MAIL STOP: RCE, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450:

1. Letter dated February 22, 2006;
2. Request for Continued Examination (RCE)
3. Amendment;
4. Certification of Melvin Auerbach;
5. Certificate of Mailing dated February 22, 2006; and
6. Stamped, self-addressed postcard

Judith L. Campione
JUDITH L. CAMPIONE

2/22/06
DATE

**Type or Printed name of person**

**SERIAL NUMBER: 10/675,974**

**APPLICANT: MELVIN AUERBACH**

**TITLE: SEALING STRIP COMPOSITION**

**MAILING DATE: March 20, 2006**

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

Express Mail mailing label number : EL 984031211 US

Date of Deposit : March 20, 2006

I hereby certify that the following is being deposited with the United States Postal Service with sufficient postage as Express Mail in an envelope addressed to COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450:

1. Letter dated March 20, 2006;
2. Supplemental Amendment
3. Copy of Notice of Non-Compliant Amendment
4. Copy of Applicant's Request for Continued Examination, including Letter to Commission of Patents dated February 22, 2006, Amendment, Certification of Melvin Auerbach, and Certificate of Mailing previously submitted February 22, 2006;
5. Certificate of Mailing dated March 20, 2006; and
6. Stamped, self-addressed postcard

Judith L. Campione — March 20, 2006

JUDITH L. CAMPIONE — DATE

**Type or Printed name of person**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/675,974 | 10/02/2003 | Melvin Auerbach | LIT-015-DIV | 6288 |

7590 03/08/2006

HERTEN BURSTEIN SHERIDAN CEVASCO BOTINELLI & LITT
Court Plaza North
25 Main Street
Hackensack, NJ 07601

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Non-Compliant Amendment (37 CFR 1.121)

| Application No. | Applicant(s) |
|---|---|
| 10/675974 | |
| **Examiner** | **Art Unit** |
| | |



*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

The amendment document filed on _____ is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☑ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☑ E. Other: claim 1 should be on page with other claims, is claim 2 amended?

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf .

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:
**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Donna Batts — Legal Instruments Examiner (LIE)

571-272-0990 — Telephone No.

# HERTEN, BURSTEIN, SHERIDAN, CEVASCO, BOTTINELLI, LITT & HARZ, L.L.C.

COUNSELLORS AT LAW

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EL984031185US

February 22, 2006

**VIA EXPRESS MAIL (EL 984031185 US)**
Commissioner of Patents
Mail Stop – RCE
P.O. Box 1450
Alexandria, VA 22313-1450

RE: TITLE: SEALING STRIP COMPOSITION
SERIAL NO. 10/675,974

Dear Sir:

Enclosed please find a Request for Continued Examination (RCE); check in the amount of $395.00; Amendment; Certification of Melvin Auerbach; Certificate of mailing and a self-addressed, stamped postcard to be date stamped, in connection with the above captioned matter.

We look forward to your prompt response regarding this request and the enclosures.

Very truly yours,

**HERTEN, BURSTEIN, SHERIDAN, CEVASCO, BOTTINELLI, LITT, & HARZ, L.L.C.**

By: _____
ARNOLD D. LITT, ESQ.

ADL:jlc
Enclosures
cc: Melvin Auerbach
bcc: Howard Flaxman, Esq.